

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Ruth Y. Goldway, Chairman;
Nanci E. Langley, Vice Chairman;
Mark Acton; and
Robert G. Taub

Forest Post Office
Forest, Louisiana

Docket No. A2012-19

ORDER AFFIRMING DETERMINATION

(Issued February 2, 2012)

I. INTRODUCTION

On December 15, 2011, the Postal Service advised the Commission that it “will delay the closing or consolidation of any Post Office until May 15, 2012.”¹ The Postal Service further indicated that it “will proceed with the discontinuance process for any Post Office in which a Final Determination was already posted as of December 12, 2011, including all pending appeals.” *Id.* It stated that the only “Post Offices” subject to closing prior to May 16, 2012 are those that were not in operation on, and for which a Final Determination was posted as of, December 12, 2011. *Id.* It affirmed that it “will not close or consolidate any other Post Office prior to May 16, 2012.” *Id.* at 2. Lastly, the Postal Service requested the Commission “to continue adjudicating appeals as provided in the 120-day decisional schedule for each proceeding.” *Id.*

¹ United States Postal Service Notice of Status of the Moratorium on Post Office Discontinuance Actions, December 15, 2011, at 1 (Notice).

The Postal Service's Notice outlines the parameters of its newly announced discontinuance policy. Pursuant to the Postal Service's request, the Commission will fulfill its appellate responsibilities under 39 U.S.C. § 404(d)(5).

On October 18, 2011, John L. Whorton (Petitioner) filed a petition with the Commission seeking review of the Postal Service's Final Determination to close the Forest, Louisiana post office (Forest post office).² The Final Determination to close the Forest post office is affirmed.

II. PROCEDURAL HISTORY

On October 24, 2011, the Commission established Docket No. A2012-19 to consider the appeal, designated a Public Representative, and directed the Postal Service to file its Administrative Record and any responsive pleadings.³

On November 2, 2011, the Postal Service filed the Administrative Record with the Commission.⁴ The Postal Service also filed comments requesting that the Commission affirm its Final Determination.⁵

² Petition for Review received from John L. Whorton regarding the Forest, Louisiana post office 71242, October 18, 2011 (Petition).

³ Order No. 923, Notice and Order Accepting Appeal and Establishing Procedural Schedule, October 24, 2011.

⁴ The Administrative Record is attached to the United States Postal Service Notice of Filing, November 2, 2011. The Postal Service supplemented the Administrative Record with copies of the round-date stamped proposal and Final Determination. United States Postal Service Notice of Supplemental Filing to the Administrative Record, December 14, 2011. The Administrative Record includes, as Item No. 47, the Final Determination to Close the Forest, Louisiana Post Office and Continue to Provide Service by Rural Route Service (Final Determination).

⁵ United States Postal Service Comments Regarding Appeal, December 13, 2011; United States Postal Service Comments Regarding Appeal–[Errata], December 14, 2011 (Postal Service Comments). The Postal Service also filed a Motion for Late Acceptance of Comments Regarding Appeal, December 13, 2011. The motion is granted.

Petitioner filed a participant statement supporting his Petition.⁶ The Commission also received a letter from Shonya Meshal Driver (Driver Letter) opposing the closure.⁷ On December 27, 2011, the Public Representative filed comments.⁸

III. BACKGROUND

The Forest post office provides retail postal services and service to 121 post office box or general delivery customers. Final Determination at 2. No delivery customers are served through this post office. The Forest post office, an EAS-11 level facility, provides retail service from 7:00 a.m. to 12:00 p.m. and 1:00 p.m. to 4:00 p.m., Monday through Friday. There is no retail service on Saturday. Lobby access hours are 24 hours daily, Monday through Saturday. *Id.*

The postmaster position became vacant on April 1, 2009 when the Forest postmaster retired. A non-career officer-in-charge (OIC) was installed to operate the post office. *Id.* at 2, 5. Retail transactions average 31 transactions daily (36 minutes of retail workload). *Id.* at 2. Post office receipts for the last 3 years were \$20,335 in FY 2008; \$18,642 in FY 2009; and \$19,416 in FY 2010. There is one permit or postage meter customer. *Id.* By closing this post office, the Postal Service anticipates savings of \$74,542 annually. *Id.* at 5.

After the closure, retail services will be provided by the Oak Grove post office located approximately 5 miles away.⁹ *Id.* at 2. Delivery service will be provided by rural route service through the Oak Grove post office. The Oak Grove post office is an EAS-18 level post office, with retail hours of 7:30 a.m. to 4:00 p.m., Monday through Friday. There is no retail service on Saturday. There are 436 post office boxes

⁶ Participant Statement received from John L. Whorton, November 16, 2011 (Participant Statement).

⁷ Letter received from Shonya Meshal Driver regarding the Forest, Louisiana post office 71242, October 21, 2011 (Driver Letter). Participant Driver filed the same letter on November 15, 2011.

⁸ Public Representative Comments, December 27, 2011 (PR Comments).

⁹ MapQuest estimates the driving distance between the Forest and Oak Grove post offices to be approximately 4.99 miles (6 minutes driving time).

available. *Id.* The Postal Service will continue to use the Forest name and ZIP Code. *Id.* at 5, Concern No. 1.

IV. PARTICIPANT PLEADINGS

Participants. Petitioner opposes the closure of the Forest post office. Petitioner contends the closing of the Forest post office discriminates against senior citizens, minority groups, and others who live on fixed incomes. Petition at 1; Participant Statement at 1-2. He states that because of his disability, he will have difficulty traveling to the mailbox daily to obtain his mail. Petition at 1. He expresses concerns about erecting a rural mailbox because of possible damage from farm equipment. *Id.* He asserts that the Forest post office is a cornerstone of the community. Participant Statement at 2.

Participant Driver expresses concern about the impact of the closure on the Forest community. Driver Letter at 1. She claims she cannot put a mailbox where she lives and having a child with special needs makes it difficult for her to pick up mail in Oak Grove. *Id.*

Postal Service. The Postal Service argues that the Commission should affirm its determination to close the Forest post office. Postal Service Comments at 2. The Postal Service believes the appeal raises three main issues: (1) the effect on postal services; (2) the impact on the Forest community; and (3) the calculation of the economic savings expected to result from discontinuing the Forest post office. *Id.* at 1. The Postal Service asserts that it has given these and other statutory issues serious consideration and concludes that the determination to discontinue the Forest post office should be affirmed. *Id.* at 2.

The Postal Service explains that its decision to close the Forest post office was based on several factors, including:

- the postmaster vacancy;
- a minimal workload;

- low office revenue;
- a variety of other delivery and retail options (including the convenience of rural delivery and retail service);
- very little growth in the area;
- minimal impact on the community; and
- expected financial savings.

Id. at 4-5. The Postal Service contends that it will continue to provide regular and effective postal services to the Forest community when the Final Determination is implemented. *Id.* at 5.

The Postal Service also asserts that it has followed all statutorily required procedures and has addressed the concerns raised by Petitioner regarding the effect on postal services, the effect on the Forest community, economic savings, and the effect on postal employees. *Id.* at 5-12.

Public Representative. The Public Representative argues that the Postal Service will not realize the cost savings it estimates because they do not include costs of replacement service. PR Comments at 1-2. She contends that the Postal Service should provide a more reasonable estimate of the additional costs for replacement service, but concludes that closing the Forest post office will still result in a net savings for the Postal Service. *Id.* at 2. She finds no persuasive argument that would prevent the Commission from affirming the Postal Service's determination to close the Forest post office. *Id.*

V. COMMISSION ANALYSIS

The Commission's authority to review post office closings is provided by 39 U.S.C. § 404(d)(5). That section requires the Commission to review the Postal Service's determination to close or consolidate a post office on the basis of the record that was before the Postal Service. The Commission is empowered by section 404(d)(5) to set aside any determination, findings, and conclusions that it finds to be

(a) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law; (b) without observance of procedure required by law; or (c) unsupported by substantial evidence in the record. Should the Commission set aside any such determination, findings, or conclusions, it may remand the entire matter to the Postal Service for further consideration. Section 404(d)(5) does not, however, authorize the Commission to modify the Postal Service's determination by substituting its judgment for that of the Postal Service.

A. Notice to Customers

Section 404(d)(1) requires that, prior to making a determination to close any post office, the Postal Service must provide notice of its intent to close. Notice must be given 60 days before the proposed closure date to ensure that patrons have an opportunity to present their views regarding the closing. The Postal Service may not take any action to close a post office until 60 days after its determination is made available to persons served by that post office. 39 U.S.C. § 404(d)(4). A decision to close a post office may be appealed within 30 days after the determination is made available to persons served by the post office. 39 U.S.C. § 404(d)(5).

The Administrative Record indicates the Postal Service took the following steps in providing notice of its intent to close. On May 25, 2011, the Postal Service distributed questionnaires to customers regarding the possible change in service at the Forest post office. Final Determination at 2. A total of 155 questionnaires were distributed to delivery customers. Other questionnaires were made available at the retail counter. A total of 37 questionnaires were returned. On June 16, 2011, the Postal Service held a community meeting at 138 Clover Street in Forest, Louisiana to address customer concerns. Forty-four (44) customers attended. *Id.*

The Postal Service posted the proposal to close the Forest post office with an invitation for comments at the Forest and Oak Grove post offices from June 30, 2011 through August 31, 2011. *Id.* The Final Determination was posted at the same two post

offices from September 29, 2011 through October 31, 2011. Administrative Record, Item No. 49.

The Postal Service has satisfied the notice requirements of 39 U.S.C. § 404(d).

B. Other Statutory Considerations

In making a determination on whether or not to close a post office, the Postal Service must consider the following factors: the effect on the community; the effect on postal employees; whether a maximum degree of effective and regular postal service will be provided; and the economic savings to the Postal Service. 39 U.S.C. § 404(d)(2)(A).

Effect on the community. Forest, Louisiana is an unincorporated community located in West Carroll Parish County, Louisiana. Administrative Record, Item No. 18. The community is administered politically by the Village of Forest. Administrative Record, Item Nos. 16, 18. Police protection is provided by Forest Police. Fire protection is provided by the Forest Fire Department. The community consists of farmers and those who commute to work at nearby communities and may work in local businesses. Administrative Record, Item No. 18; Final Determination at 5. Residents may travel to nearby communities for other supplies and services. *See generally* Administrative Record, Item No. 22 (returned customer questionnaires and Postal Service response letters).

As a general matter, the Postal Service solicits input from the community by distributing questionnaires to customers and holding a community meeting. The Postal Service met with members of the Forest community and solicited input from the community with questionnaires. In response to the Postal Service's proposal to close the Forest post office, customers raised concerns regarding the effect of the closure on the community. Their concerns and the Postal Service's responses are summarized in the Final Determination. Final Determination at 5.

Participants express concerns about the impact of the closure on the Forest community. Participant Statement at 2. The Postal Service responds that a

community's identity derives from the interest and vitality of its residents and their use of its name. Postal Service Comments at 9. It asserts that it is helping to preserve community identity by continuing the use of the community name and ZIP Code in addresses. It notes that communities generally require regular and effective postal services, which it contends will continue to be provided to the Forest community. *Id.*

Petitioner contends that the Postal Service did not take into account the impact on senior citizens, minority groups, and others living on fixed incomes. The Postal Service responds that it is required to provide service to customers regardless of their demographics on a regular and effective basis. It asserts that it considered the postal and nonpostal needs of the community and determined that the proposed alternative will ensure the provision of effective and regular service. *Id.*

The Postal Service adequately considered the effect of the post office closing on the community as required by 39 U.S.C. § 404(d)(2)(A)(i).

Effect on employees. The Postal Service states that the postmaster retired on April 1, 2009 and that an OIC has operated the Forest post office since then. Final Determination at 2. It asserts that after the Final Determination is implemented, the temporary OIC may be separated, but it will attempt to reassign the employee to a nearby facility. Postal Service Comments at 12. It affirms that no other Postal Service employee will be affected. *Id.*

The Postal Service has considered the possible effects of the post office closing on the OIC and has satisfied its obligation to consider the effect of the closing on employees at the Forest post office as required by 39 U.S.C. § 404(d)(2)(A)(ii).

Effective and regular service. The Postal Service contends that it has considered the effect the closing will have on postal services provided to Forest customers. Postal Service Comments at 5-8. It asserts that customers of the closed Forest post office may obtain retail services at the Oak Grove post office located 5 miles away. Final Determination at 2. Delivery service will be provided by rural route service through the Oak Grove post office. The Forest post office box customers may obtain Post Office Box service at the Oak Grove post office, which has 436 boxes available. *Id.*

For customers choosing not to travel to the Oak Grove post office, the Postal Service explains that retail services will be available from the carrier. Postal Service Comments at 6. The Postal Service adds that it is not necessary to meet the carrier for service since most transactions do not require meeting the carrier at the mailbox. *Id.*

Participants express concerns about the accessibility of postal services to senior citizens, minorities, persons with disabilities, and children with special needs. The Postal Service responds that carrier service is especially beneficial to many senior citizens and those facing special challenges because the carrier can provide delivery and retail services to roadside mailboxes. It notes that customers do not have to make a special trip to the post office for service and will have 24-hour access to their mail. *Id.* It asserts that in hardship cases, delivery can be made to a customer's home. *Id.* at 7.

Petitioner expresses concerns about erecting a rural mailbox because of possible damage from farm equipment. Petition at 1. Participant Driver also claims she cannot put a mailbox where she lives. Driver Letter at 1. The Postal Service explains that customers are not required to erect rural mailboxes and may receive Post Office Box service from the Oak Grove post office, which has 436 post office boxes available. Postal Service Comments at 7. It also asserts that customers may contact their local magistrate or other county official to determine what steps need to be taken to bring their road up to standards to minimize potential damage to mailboxes. *Id.*

The Postal Service has considered the issues raised by customers concerning effective and regular service as required by 39 U.S.C. § 404(d)(2)(A)(iii).

Economic savings. The Postal Service estimates total annual savings of \$74,542. Final Determination at 5. It derives this figure by summing the following costs: postmaster salary and benefits (\$69,142) and annual lease costs (\$5,400). The Postal Service cites no cost of replacement service or one-time expenses.

The Public Representative argues that the Postal Service will not realize the cost savings it estimates because they do not include costs of replacement service. PR Comments at 1-2. She contends that the Postal Service should provide a more reasonable estimate of the additional costs for replacement service, but concludes that

closing the Forest post office will still result in a net savings for the Postal Service. *Id.* at 2. She finds no persuasive argument that would prevent the Commission from affirming the Postal Service's determination to close the Forest post office.

Indeed, even if the cost of replacement service had been factored into the economic savings, the Postal Service would realize net financial benefits.

The Commission has previously observed that the Postal Service should include in its estimate of savings those costs likely to be eliminated by the closing. The Forest post office postmaster retired on April 1, 2009. Final Determination at 2. The post office has since been staffed by a non-career OIC who, upon discontinuance of the post office, may be separated from the Postal Service. The postmaster position and the corresponding salary will be eliminated. See, e.g., Docket No. A2011-67, United States Postal Service Comments Regarding Appeal, October 24, 2011, at 13; Docket No. A2011-68, United States Postal Service Comments Regarding Appeal, November 2, 2011, at 10. Furthermore, notwithstanding that the Forest post office has been staffed by an OIC for approximately two years, even assuming the use of the presumably lower OIC salary, the Postal Service would have satisfied the requirements of section 404(d)(2)(A)(iv).

The Postal Service has satisfied the requirement that it consider economic savings as required by 39 U.S.C. § 404(d)(2)(A)(iv).

VI. CONCLUSION

The Postal Service has adequately considered the requirements of 39 U.S.C. § 404(d). Accordingly, the Postal Service's determination to close the Forest post office is affirmed.

It is ordered:

The Postal Service's determination to close the Forest, Louisiana post office is affirmed.

By the Commission.

Ruth Ann Abrams
Acting Secretary

DISSENTING OPINION OF CHAIRMAN GOLDWAY

The Administrative Record is inaccurate with regard to economic savings. As such, the Postal Service has not adequately considered economic savings as required by 39 U.S.C. § 404(d)(2)(A)(iv).

The Postal Service argues that savings should be calculated based on a full-time postmaster's salary. Yet the Forest post office has been operated by a non-career officer-in-charge (OIC) since the former postmaster retired on April 1, 2009. On the one hand, the Postal Service argues that the effect on employees of this closing will be minimal because only a non-career OIC will be eliminated; yet on the other hand, it argues that the savings should be calculated using a full-time postmaster position.

The Postal Service already claims billions of dollars in savings from reducing labor costs. I believe the savings from substituting OICs in postmaster positions throughout the nation have already been included in those billions. There are inherent and blatant contradictions in the Administrative Record that must be corrected on remand.

In addition, as my colleagues note, the economic analysis identified in the Final Determination does not adequately account for the costs of replacement service for the 121 customers presently provided post office boxes at the Forest post office. See *also* PR Comments at 1-2.

It is not the statutory responsibility of the Commission to correct the Administrative Record for the Postal Service and certainly not to make its own surmise about what and/or whether there would be savings if accurate data was in the Administrative Record. Therefore, the decision to close should be remanded to the Postal Service to correct the Administrative Record and present a more considered evaluation of potential savings.

Moreover, the Postal Service recently announced a moratorium on post office closings. It is confusing and perhaps unfair to require some citizens whose post offices have received a discontinuance notice as of December 12, 2011 to gather evidence and pursue an appeal to the Commission, while others whose post offices were in the review process, but had not yet received a discontinuance notice by December 12, 2011 have the respite of a 5-month moratorium and the opportunity to have further consideration of alternatives by the Postal Service.

The citizens of Forest, Louisiana and their concerns regarding the loss of a neighborhood post office should be afforded the same opportunity to be heard and considered as the citizens of the approximately 3,700 post offices fully covered by the moratorium.

Ruth Y. Goldway

DISSENTING OPINION OF VICE CHAIRMAN LANGLEY

The Postal Service did not adequately consider the economic savings as required by 39 U.S.C. § 404(d)(2)(A)(iv). The Administrative Record is unclear if the current lease, which terminates on January 15, 2015, does or does not have a 30-day termination clause. Administrative Record, Item Nos. 15, 18, 42. If there is no termination clause, the Postal Service should note that any savings from the lease will not be realized for at least three years.

In addition, the Postal Service should take into consideration that a non-career postmaster relief (PMR) has been in charge of this facility since April 2009, not an EAS-11 postmaster, and reflect the PMR's salary and benefits in its cost savings analysis. As a government entity, the Postal Service should ensure that its cost/benefit analysis accurately identifies capturable cost savings and does not overstate savings.

The Public Representative questions the Postal Service's calculations that there will be no additional costs incurred for the replacement service, which likely inflates any economic cost savings realized by closing the Forest post office. PR Comments at 2. The Postal Service's projected economic savings should be adjusted to reflect the cost of replacement service, which surely must be greater than \$0.

I find that the Administrative Record evidence does not support the Postal Service's decision to discontinue operations at the Forest post office and should be remanded.

Nanci E. Langley